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Almost Heaven (plus taxes)

Fayette County has a one-time development fee on buildings

**By Tom Charlier**

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OAKLAND, Tenn. -- Brochures for the new homes rising in a subdivision south of U.S. 64 here boast of cultured marble Jacuzzis, designer countertops, ceramic-tile bathrooms and an array of amenities aimed at "making your dreams a reality."

But there's one reality that comes with the homes that builders aren't as eager to advertise -- a new tax that most are passing along to buyers.

For nearly a year, Fayette County has been assessing a 20-cent tax on every square foot of heated space in residential construction and 15 cents for each foot of commercial construction under roof.

Unlike Shelby County, where strong opposition from home builders has helped block such a measure, Fayette has enacted an "adequate facilities tax" designed to fund capital improvements needed to support growth.

Although the tax doesn't enjoy universal support in Fayette, few dispute that capital projects will be needed to serve the dramatic influx of new residents.

With a population now well over 30,000, Fayette was the state's fastest-growing county between 2000 and 2003. A major reason was the number of residents fleeing high property taxes and other problems in neighboring Shelby County.

Since its enactment last December, the adequate facilities tax has been generating some \$45,000 a month. Annual revenues now are expected to double the initially projected \$250,000.

Although builders have resisted a tax in Shelby County through claims that it would smother growth, that hasn't been the case in Fayette County.



Photos by Mike Maple  
The Commercial Appeal

At The Cedars and other developments in Fayette County, a tax is added on every square foot of heated space. The money funds capital projects.

"Ours (the tax) is working well," Fayette County Mayor Rhea Taylor said. "There's been no slowdown in building that I can discern."

Building permit figures tend to support Taylor.

In fast-growing Oakland, the 368 building permits granted through Sept. 30 already had eclipsed the total for all of 2004. In unincorporated areas, the 585 permits issued between Dec. 1 and Sept. 30 were up 7.5 percent from those issued during the same period a year earlier.

So far, none of the money from the tax has been spent. But projects being considered include a new criminal justice center and jail, fire service and road improvements, a satellite-based geographic information system and new schools.

The money can be withdrawn only by the County Commission.

"There's a very clear paper trail as to what it could be used for," Taylor said.

The 2001 legislation that initially authorized the tax says it's intended to make sure that those responsible for new development share in the burdens of growth by paying their "fair share" for the cost of new and expanded public facilities to support that growth.

Fayette is hardly alone in assessing some sort of development tax.

At least 14 counties and 84 cities across the state have been authorized by the General Assembly to levy an adequate facilities or development tax or impact fee, according to a 2004 report by the Tennessee Advisory Commission on Intergovernmental Relations.

The report added that the number of communities interested in the taxes "seems to rise each year."

Fayette's tax, which builders generally include with the cost of the home, adds \$400 to the cost of a 2,000-square-foot residence and \$600 to one that covers 3,000 square feet.

A business constructing a 50,000-square-foot building would have to pay \$7,500.

Builders say home buyers haven't complained. Fayette's low property tax rate -- \$1.74 per \$100 assessed valuation -- more than makes up for the additional one-time tax, they say.

"Fayette County has to build some infrastructure. I think they (buyers) all understand that Fayette County is growing, and the tax rate is low," said Mark Johnson of Ross-Johnson Homes.

Even the tax's detractors say the rate is too low to dampen development.

"Twenty cents (a foot) isn't going to stop me from building anything," said Ron Burkett, owner of Burkett Homes, who is more worried about possible increases.

However, Maggie Powers, executive director of the Oakland Regional Chamber of Commerce, said the area's growth might have been even greater had the tax not been enacted.

"The growth is still continuing, but who's to say it wouldn't have been 100 (permits) more if it hadn't been there? You can't measure what you don't have," she said.

Some of the biggest complaints have come from the county's west end, where most of the growth is occurring.

Whitney Chambers, mayor of Piperton, questions why towns like his don't get to keep more of the revenues they generate.

"All this money goes to the entire county that the western end supports," he said.

Oakland's mayor, Bill Mullins, said the tax has hurt his town. Although residential growth remains strong, he said, some commercial development has been stymied.

And he argues that the property taxes from those developments over the long haul would far outweigh the one-time development tax.

Taylor, the county mayor, acknowledges that some businesses might have shied away because of the tax. But he said, "I've had other businesses move in and not blink an eye."

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